

House Study Bill 723

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the policy administration of the tax and
2 related laws by the department of revenue, including
3 administration of and substantive changes to the state
4 individual income, corporate income, sales, use, property,
5 inheritance, motor fuel, special fuel, cigarette, and tobacco
6 taxes and including penalties.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 6923HC 80
9 mg/pj/5

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1 1 Section 1. Section 15.335, subsection 4, unnumbered
1 2 paragraph 2, Code Supplement 2003, is amended to read as
1 3 follows:
1 4 For purposes of this section, "Internal Revenue Code" means
1 5 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.
1 6 Sec. 2. Section 15A.9, subsection 8, paragraph e,
1 7 unnumbered paragraph 2, Code Supplement 2003, is amended to
1 8 read as follows:
1 9 For purposes of this subsection, "Internal Revenue Code"
1 10 means the Internal Revenue Code in effect on January 1, ~~2003~~
1 11 2004.
1 12 Sec. 3. Section 421.1, subsection 4, Code Supplement 2003,
1 13 is amended by adding the following new unnumbered paragraph:
1 14 NEW UNNUMBERED PARAGRAPH. Judicial review of the decisions
1 15 or orders of the board resulting from the review of decisions
1 16 or orders of the director of revenue for assessment and
1 17 collection of taxes by the department may be sought by the
1 18 taxpayer or the director of revenue in accordance with the
1 19 terms of chapter 17A.
1 20 Sec. 4. Section 421.17A, subsection 2, paragraph a, Code
1 21 Supplement 2003, is amended to read as follows:
1 22 a. Notwithstanding other statutory provisions which
1 23 provide for the execution, attachment, garnishment, or levy
1 24 against accounts, the facility may utilize the process
1 25 established in this section to collect delinquent accounts,
1 26 charges, fees, loans, taxes, or other indebtedness due the
1 27 state or being collected by the state provided that any
1 28 exemptions or exceptions which specifically apply to
1 29 enforcement of such obligations also apply to this section.
1 30 Administrative levy under this section is the equivalent of
1 31 condemning funds under chapter 642. It is expressly provided
1 32 that these remedies shall be cumulative and that no action
1 33 taken by the director or attorney general shall be construed
1 34 to be an election on the part of the state or any of its
1 35 officers, employees, or representatives to pursue any other
2 1 remedy provided by law.
2 2 Sec. 5. Section 421.17A, subsection 3, Code Supplement
2 3 2003, is amended to read as follows:
2 4 3. ~~INITIAL NOTICE OF INTENT TO OBLIGOR.~~ The facility may
2 5 proceed under this section only if twenty days' notice has
2 6 been provided ~~to the obligor~~ by regular mail to the last known
2 7 address of the obligor, notifying the obligor that the obligor
2 8 is subject to this section and of the facility's intention to
2 9 use the levy process. The facility shall give twenty days'
2 10 notice of its intention to use the levy process. The twenty-
2 11 day twenty days' notice period shall not be required if the
2 12 facility determines that the collection of past due amounts
2 13 would be jeopardized.
2 14 Sec. 6. Section 421.17A, subsection 5, paragraph c,
2 15 subparagraph (7), Code Supplement 2003, is amended to read as
2 16 follows:
2 17 (7) ~~A The telephone number, address, and contact name of~~
2 18 the agent for the facility initiating the action.

2 19 Sec. 7. Section 421.17A, subsection 6, Code Supplement
2 20 2003, is amended to read as follows:

2 21 6. ADMINISTRATIVE LEVY == NOTICE OF INITIATION OF ACTION
2 22 TO OBLIGOR AND OTHER ACCOUNT HOLDERS.

2 23 a. The facility may administratively initiate an action to
2 24 seize one or more accounts of an obligor who is subject to
2 25 this section and section 421.17, subsection 27.

2 26 b. The facility shall notify an obligor subject to this
2 27 section. The notice shall contain all of the following:

2 28 (1) The name and social security number of the obligor.

2 29 (2) A statement that the obligor is believed to have an
2 30 account at the financial institution.

2 31 (3) A statement that pursuant to the provisions of this
2 32 section, the obligor's account is subject to seizure and the
2 33 financial institution is authorized and required to forward
2 34 moneys to the facility.

2 35 (4) The maximum amount to be forwarded by the financial
3 1 institution, which shall not exceed the delinquent or accrued
3 2 amount of debt being collected by or owed to the state by the
3 3 obligor.

3 4 (5) The prescribed time frames the financial institution
3 5 must meet in forwarding any amounts.

3 6 (6) A statement that any challenge to the action must be
3 7 in writing and must be received by the facility within ten
3 8 days of the date of the notice to the obligor.

3 9 (7) The address of the facility and the account number
3 10 utilized by the facility for the obligor.

3 11 (8) ~~A The telephone number, address, and contact name of~~
3 12 ~~the agent for the facility initiating the action.~~

3 13 c. The facility shall forward the notice of initiation of
3 14 action to the obligor by regular mail within two working days
3 15 of sending the notice to the financial institution pursuant to
3 16 subsection 5, paragraph "b".

3 17 d. The facility shall notify any other party known to have
3 18 an interest in the account. The notice shall contain all of
3 19 the following:

3 20 (1) The name of the obligor.

3 21 (2) The name of the financial institution.

3 22 (3) A statement that the account in which the other party
3 23 is known to have an interest is subject to seizure.

3 24 (4) A statement that any challenge to the action must be
3 25 in writing and must be received by the facility within ten
3 26 days of the date of the notice to the party known to have an
3 27 interest.

3 28 (5) The address of the facility and the name of the
3 29 obligor who also has an interest in the account.

3 30 (6) ~~A The telephone number, address, and contact name of~~
3 31 ~~the agent for the facility initiating the action.~~

3 32 e. The facility shall forward the notice to the other
3 33 party known to have an interest by regular mail within two
3 34 working days of sending the notice to the financial
3 35 institution pursuant to subsection 5, paragraph "b".

4 1 Sec. 8. Section 421.17A, subsection 8, paragraphs b, c,
4 2 and f, Code Supplement 2003, are amended to read as follows:

4 3 b. The person challenging the action shall submit a
4 4 written challenge to the person identified as the contact
4 5 agent for the facility in the notice, within ten days of the
4 6 date of the notice of initiation of the levy.

4 7 c. The facility, upon receipt of a written challenge,
4 8 shall review the facts of the case administrative levy with
4 9 the challenging party within ten days of receipt of the
4 10 challenge. If the challenging party is not available for the
4 11 review on the scheduled date, the review shall take place
4 12 without the challenging party being present. Information in
4 13 favor of the challenging party shall be considered by the
4 14 facility in the review. The facility may utilize additional
4 15 information if such information is available. Only a mistake
4 16 of fact, including, but not limited to, a mistake in the
4 17 identity of the obligor or a mistake in the amount owed to or
4 18 being collected by the state shall be considered as a reason
4 19 to dismiss or modify the action.

4 20 f. The challenging party shall have the right to file an
4 21 action for wrongful levy in district court within thirty days
4 22 of the date of the notice in paragraph "e", either in the
4 23 county where the obligor or the party known to have an
4 24 interest in the account resides or in Polk county where the
4 25 facility is located. Actions under this section are in equity
4 26 and not actions at law.

4 27 Sec. 9. Section 421.17A, subsection 8, Code Supplement
4 28 2003, is amended by adding the following paragraphs:

4 29 NEW PARAGRAPH. g. Recovery under this section is limited

4 30 to restitution of the amount that has been wrongfully
4 31 encumbered or obtained by the department.
4 32 NEW PARAGRAPH. h. A challenge to an administrative action
4 33 under this subsection cannot be used to extend or reopen the
4 34 statute of limitations to protest other departmental actions
4 35 or to contest the amount or validity of the tax. Only issues
5 1 involving the levy can be raised in a challenge to an
5 2 administrative action under this subsection.
5 3 Sec. 10. Section 421.17B, subsection 2, paragraph a, Code
5 4 Supplement 2003, is amended to read as follows:
5 5 a. Notwithstanding other statutory provisions which
5 6 provide for the execution, attachment, garnishment, or levy
5 7 against accounts, the facility may utilize the process
5 8 established in this section to collect delinquent accounts,
5 9 charges, fees, loans, taxes, or other indebtedness due the
5 10 facility or being collected by the facility provided all
5 11 administrative remedies have been waived or exhausted by the
5 12 obligor. Any exemptions or exceptions which specifically
5 13 apply to enforcement of such obligations also apply to this
5 14 section. Administrative wage assignment under this section is
5 15 the equivalent of condemning funds under chapter 642. It is
5 16 expressly provided that these remedies shall be cumulative and
5 17 that no action taken by the director or the attorney general
5 18 shall be construed to be an election on the part of the state
5 19 or any of its officers or representatives to pursue any other
5 20 remedy provided by law.
5 21 ~~Administrative wage assignment under this section is the~~
5 22 ~~equivalent of condemning funds under chapter 642.~~
5 23 ~~The administrative wage assignment is to be considered an~~
5 24 ~~additional means of collection by the facility and not an~~
5 25 ~~exclusive means of collection. If the use of an~~
5 26 ~~administrative wage assignment is not successful in collecting~~
5 27 ~~an outstanding debt due the facility, the facility may use the~~
5 28 ~~collection provisions set forth in chapters 626 and 642.~~
5 29 Sec. 11. Section 421.17B, subsection 3, Code Supplement
5 30 2003, is amended to read as follows:
5 31 3. NOTICE OF INTENT TO THE OBLIGOR.
5 32 a. The facility may proceed under this section only if ~~a~~
5 33 ~~ten-day twenty days' notice has been provided to the obligor.~~
5 34 ~~Notice by the facility may be by regular mail to the last~~
5 35 known address of the obligor, notifying the obligor that the
6 1 obligor is subject to this section. If the facility
6 2 determines that collection of the debt may be in jeopardy, the
6 3 facility may request that the employer deliver notice of the
6 4 wage assignment simultaneous with the remainder of or in lieu
6 5 of the obligor's compensation due from the employer.
6 6 The facility may obtain one or more wage assignments of an
6 7 obligor who is subject to this section. If the obligor has
6 8 more than one employer, the facility may receive wage
6 9 assignments from one or ~~all more~~ of the employers until the
6 10 full debt obligation of the obligor is satisfied. If an
6 11 obligor has more than one employer, the facility shall give
6 12 notice to all employers ~~that the facility seeks to have an~~
6 13 ~~assignment of wages from whom an assignment is sought.~~
6 14 b. The notice from the facility to the obligor shall
6 15 contain all of the following:
6 16 (1) The name and social security number of the obligor.
6 17 (2) A statement that the obligor is believed to have
6 18 employment with the stated employer.
6 19 (3) A statement that pursuant to the provisions of this
6 20 section, the obligor's wages will be assigned to the facility
6 21 for payment of the specified debts and that the employer is
6 22 authorized and required to forward moneys to the facility.
6 23 (4) The maximum amount to be forwarded by the employer,
6 24 which shall not exceed the delinquent or accrued amount of
6 25 debt being collected by or owed to the facility by the
6 26 obligor.
6 27 (5) The prescribed time frames the employer must meet in
6 28 forwarding any amounts.
6 29 (6) A statement that any challenge to the action must be
6 30 in writing and must be received by the facility within ten
6 31 days of the date of the notice to the obligor.
6 32 (7) The address of the facility and the account number
6 33 utilized by the facility for the obligor.
6 34 (8) ~~A The telephone number, address, and contact name of~~
6 35 ~~the agent for the facility initiating the action.~~
7 1 Sec. 12. Section 421.17B, subsection 6, paragraph c,
7 2 subparagraph (7), Code Supplement 2003, is amended to read as
7 3 follows:
7 4 (7) ~~A The telephone number, address, and name of a contact~~
7 5 ~~person with the facility of the agent for the facility~~

7 6 initiating the action.

7 7 Sec. 13. Section 421.17B, subsection 8, paragraphs a, b,
7 8 c, and f, Code Supplement 2003, are amended to read as
7 9 follows:

7 10 a. Challenges under this section may be initiated only by
7 11 an obligor. An administrative wage assignment only occurs
7 12 after the obligor has waived or exhausted administrative
7 13 remedies. Reviews by the facility of a challenge to an
7 14 administrative wage assignment are not subject to chapter 17A
7 15 ~~unless the challenge is regarding the validity of the~~
~~7 16 assignment. Actions under this section are in equity and not~~
~~7 17 actions at law.~~

7 18 b. The obligor challenging the administrative wage
7 19 assignment shall submit a written challenge to the person
7 20 identified as the ~~contact agent~~ for the facility in the
7 21 notice, within ten days of the date of the notice ~~to the~~
~~7 22 obligor of initiation of the assignment.~~

7 23 c. The facility, upon receipt of a written challenge,
7 24 shall review the facts of the ~~case~~ administrative wage
~~7 25 assignment~~ with the obligor within ten days of receipt of the
7 26 challenge. If the obligor is not available for the review on
7 27 the scheduled date, the review shall take place without the
7 28 obligor being present. Information in favor of the obligor
7 29 shall be considered by the facility in the review. The
7 30 facility may utilize additional information if such
7 31 information is available. Only a mistake of fact, including,
7 32 but not limited to, a mistake in the identity of the obligor
7 33 or a mistake in the amount owed to or being collected by the
7 34 facility shall be considered as a reason to dismiss or modify
7 35 the administrative wage assignment.

8 1 f. The obligor shall have the right to file an action for
8 2 wrongful assignment in district court within thirty days of
8 3 the date of the notice to the obligor, either in the county
8 4 where the obligor is located or in Polk county where the
8 5 facility is located. Actions under this section are in equity
~~8 6 and not actions at law.~~

8 7 Sec. 14. Section 421.17B, subsection 8, Code Supplement
8 8 2003, is amended by adding the following new paragraphs:

8 9 NEW PARAGRAPH. g. Recovery under this subsection is
8 10 limited to restitution of the amount that has been wrongfully
8 11 encumbered or obtained by the department.

8 12 NEW PARAGRAPH. h. A challenge to an administrative action
8 13 under this subsection cannot be used to extend or reopen the
8 14 statute of limitations to protest other departmental actions
8 15 or to contest the amount or validity of the tax. Only issues
8 16 involving the assignment can be raised in a challenge to an
8 17 administrative action under this subsection.

8 18 Sec. 15. Section 421.17B, subsection 9, unnumbered
8 19 paragraph 2, Code Supplement 2003, is amended to read as
8 20 follows:

8 21 Expiration Cessation of the wage assignment does not affect
8 22 the obligor's duties and liabilities respecting the wages
8 23 already withheld pursuant to the wage assignment.

8 24 Sec. 16. Section 422.10, subsection 3, unnumbered
8 25 paragraph 2, Code Supplement 2003, is amended to read as
8 26 follows:

8 27 For purposes of this section, "Internal Revenue Code" means
8 28 the Internal Revenue Code in effect on January 1, ~~2003~~ 2004.

8 29 Sec. 17. Section 422.33, subsection 5, paragraph d,
8 30 unnumbered paragraph 2, Code Supplement 2003, is amended to
8 31 read as follows:

8 32 For purposes of this subsection, "Internal Revenue Code"
8 33 means the Internal Revenue Code in effect on January 1, ~~2003~~
8 34 2004.

8 35 Sec. 18. Section 422.42, subsection 6, Code 2003, is
9 1 amended by adding the following new paragraph:

9 2 NEW PARAGRAPH. c. That trade discounts given or allowed
9 3 by manufacturers, distributors, or wholesalers to retailers or
9 4 by manufacturers or distributors to wholesalers and payments
9 5 made by manufacturers, distributors, or wholesalers directly
9 6 to retailers or by manufacturers or distributors to
9 7 wholesalers to reduce the sales price of the manufacturer's,
9 8 distributor's, or wholesaler's product or to promote the sale
9 9 or recognition of the manufacturer's, distributor's, or
9 10 wholesaler's product shall not be included if excessive sales
9 11 tax is not collected from the purchaser. This paragraph does
9 12 not apply to coupons issued by manufacturers, distributors, or
9 13 wholesalers to consumers.

9 14 Sec. 19. Section 422A.1, unnumbered paragraph 8, Code
9 15 Supplement 2003, is amended to read as follows:

9 16 The tax levied shall be in addition to any state sales tax

9 17 imposed under section 422.43. Section 422.25, subsection 4,
9 18 sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67,
9 19 422.68, 422.69, subsection 1, and sections 422.70 to 422.75,
9 20 consistent with the provisions of this chapter, apply with
9 21 respect to the taxes authorized under this chapter, in the
9 22 same manner and with the same effect as if the hotel and motel
9 23 taxes were retail sales taxes within the meaning of those
9 24 statutes. Notwithstanding this paragraph, the director shall
9 25 provide for quarterly filing of returns as prescribed in
9 26 section 422.51 and for other than quarterly filing of returns
9 27 as prescribed in section 422.51, subsection 2. The director
9 28 may require all persons, as defined in section 422.42, who are
9 29 engaged in the business of deriving gross receipts subject to
9 30 tax under this chapter, to register with the department. All
9 31 taxes collected under this chapter by a retailer or any
9 32 individual are deemed to be held in trust for the state of
9 33 Iowa.

9 34 Sec. 20. Section 422B.9, subsection 3, paragraph a, Code
9 35 Supplement 2003, is amended to read as follows:
10 1 a. The director, in consultation with local officials,
10 2 shall collect and account for a local sales and services tax.
10 3 The director shall certify each quarter the amount of local
10 4 sales and services tax receipts and any interest and penalties
10 5 to be credited to the "local sales and services tax fund"
10 6 established in the office of the treasurer of state. All
10 7 taxes collected under this chapter by a retailer or any
10 8 individual are deemed to be held in trust for the state of
10 9 Iowa.

10 10 Sec. 21. Section 423.1, subsection 47, paragraph b, as
10 11 enacted by 2003 Iowa Acts, First Extraordinary Session,
10 12 chapter 2, section 94, is amended by adding the following new
10 13 subparagraph:
10 14 NEW SUBPARAGRAPH. (5) Trade discounts given or allowed by
10 15 manufacturers, distributors, or wholesalers to retailers or by
10 16 manufacturers or distributors to wholesalers and payments made
10 17 by manufacturers, distributors, or wholesalers directly to
10 18 retailers or by manufacturers or distributors to wholesalers
10 19 to reduce the sales price of the manufacturer's, distributors,
10 20 or wholesaler's product or to promote the sale or recognition
10 21 of the manufacturer's, distributor's, or wholesaler's product.
10 22 This subparagraph does not apply to coupons issued by
10 23 manufacturers, distributors, or wholesalers to consumers.

10 24 Sec. 22. Section 423.1, subsection 47, as enacted by 2003
10 25 Iowa Acts, First Extraordinary Session, chapter 2, section 94,
10 26 is amended by adding the following new paragraph:

10 27 NEW PARAGRAPH. c. For purposes of this definition, the
10 28 sales price from a rental or lease includes rent, royalties,
10 29 and copyright and license fees.

10 30 Sec. 23. Section 423.2, subsection 6, unnumbered paragraph
10 31 2, as enacted by 2003 Iowa Acts, First Extraordinary Session,
10 32 chapter 2, section 95, is amended to read as follows:

10 33 ~~For the purposes of this subsection, the sales price of a~~
10 34 ~~lease or rental includes rents, royalties, and copyright and~~
10 35 ~~license fees.~~ For the purposes of this subsection, "financial

11 1 institutions" means all national banks, federally chartered
11 2 savings and loan associations, federally chartered savings
11 3 banks, federally chartered credit unions, banks organized
11 4 under chapter 524, savings and loan associations and savings
11 5 banks organized under chapter 534, and credit unions organized
11 6 under chapter 533.

11 7 Sec. 24. Section 423.2, as enacted by 2003 Iowa Acts,
11 8 First Extraordinary Session, chapter 2, section 95, is amended
11 9 by adding the following new subsection:

11 10 NEW SUBSECTION. 11. All taxes collected under this
11 11 chapter by a retailer or any individual are deemed to be held
11 12 in trust for the state of Iowa.

11 13 Sec. 25. Section 423.3, subsections 33 and 82, as enacted
11 14 by 2003 Iowa Acts, First Extraordinary Session, chapter 2,
11 15 section 96, are amended to read as follows:

11 16 33. a. The sales price of mementos and other items
11 17 relating to Iowa history and historic sites, the general
11 18 assembly, and the state capitol, sold by the legislative
11 19 ~~service bureau~~ services agency and its legislative information
11 20 office on the premises of property under the control of the
11 21 legislative council, at the state capitol, and on other state
11 22 property.

11 23 b. The legislative services agency is not a retailer under
11 24 this chapter and the sale of items or provision of services by
11 25 the legislative services agency is not a retail sale under
11 26 this chapter and is exempt from the sales tax.

11 27 82. a. The sales price from the sale or rental of core

11 28 ~~and making, mold making, equipment and sand handling machinery~~
11 29 ~~and equipment, including replacement parts, directly and~~
11 30 ~~primarily used in the mold making process by a foundry.~~
11 31 ~~b. The sales price from the sale of fuel used in creating~~
11 32 ~~heat, power, steam, or for generating electric current, or~~
11 33 ~~from the sale of electricity, consumed by core making, mold~~
11 34 ~~making, and sand handling machinery and equipment used~~
11 35 ~~directly and primarily in the mold-making process by a~~
12 1 ~~foundry.~~

12 2 ~~c. The sales price from the furnishing of the design and~~
12 3 ~~installation, including electrical and electronic~~
12 4 ~~installation, of core making, mold making, and sand handling~~
12 5 ~~machinery and equipment used directly and primarily in the~~
12 6 ~~mold-making process by a foundry.~~

12 7 Sec. 26. Section 423.3, as enacted by 2003 Iowa Acts,
12 8 First Extraordinary Session, chapter 2, section 96, is amended
12 9 by adding the following new subsection:

12 10 NEW SUBSECTION. 43A. The sales price from the sale of
12 11 wine which is shipped from outside Iowa and which meets the
12 12 requirements for sales and use tax exemption pursuant to
12 13 section 123.187.

12 14 Sec. 27. Section 424.3, subsection 1, Code 2003, is
12 15 amended by adding the following new unnumbered paragraph:

12 16 NEW UNNUMBERED PARAGRAPH. All taxes or charges collected
12 17 under this chapter by a depositor or any individual from a
12 18 receiver or any other individual are considered to be held in
12 19 trust on behalf of the state of Iowa.

12 20 Sec. 28. Section 441.21, subsection 2, Code Supplement
12 21 2003, is amended to read as follows:

12 22 2. In the event market value of the property being
12 23 assessed cannot be readily established in the foregoing
12 24 manner, then the assessor may determine the value of the
12 25 property using the other uniform and recognized appraisal
12 26 methods including its productive and earning capacity, if any,
12 27 industrial conditions, its cost, physical and functional
12 28 depreciation and obsolescence and replacement cost, and all
12 29 other factors which would assist in determining the fair and
12 30 reasonable market value of the property but the actual value
12 31 shall not be determined by use of only one such factor. The
12 32 following shall not be taken into consideration: Special
12 33 value or use value of the property to its present owner, and
12 34 the good will or value of a business which uses the property
12 35 as distinguished from the value of the property as property.
13 1 However, in assessing property that is rented or leased to
13 2 low-income individuals and families as authorized by section
13 3 42 of the Internal Revenue Code, as amended, and which section
13 4 limits the amount that the individual or family pays for the
13 5 rental or lease of units in the property, the assessor shall
13 6 use the productive and earning capacity from the actual rents
13 7 received as a method of appraisal and shall take into account
13 8 the extent to which that use and limitation reduces the market
13 9 value of the property. The assessor shall not consider any
13 10 tax credit equity or other subsidized financing as income
13 11 provided to the property in determining the assessed value.

13 12 The property owner shall notify the assessor when property is
13 13 withdrawn from section 42 eligibility under the Internal
13 14 Revenue Code. The property shall not be subject to section 42
13 15 assessment procedures for the assessment year for which
13 16 section 42 eligibility is withdrawn. This notification must
13 17 be provided to the assessor no later than March 1 of the
13 18 assessment year or the owner will be subject to a penalty of
13 19 five hundred dollars for that assessment year. The penalty
13 20 shall be collected at the same time and in the same manner as
13 21 regular property taxes. Upon adoption of uniform rules by the

13 22 revenue department or succeeding authority covering
13 23 assessments and valuations of such properties, said valuation
13 24 on such properties shall be determined in accordance therewith
13 25 for assessment purposes to assure uniformity, but such rules
13 26 shall not be inconsistent with or change the foregoing means
13 27 of determining the actual, market, taxable and assessed
13 28 values.

13 29 Sec. 29. Section 450.22, Code 2003, is amended to read as
13 30 follows:

13 31 450.22 ADMINISTRATION AVOIDED == INHERITANCE TAX DUTIES
13 32 REQUIRED.

13 33 1. When the heirs or persons entitled to inherit the
13 34 property of an estate subject to tax under this chapter desire
13 35 to avoid the appointment of a personal representative as
14 1 provided in section 450.21, and in all instances where real
14 2 estate is involved and there are no regular probate
14 3 proceedings, they or one of them shall file under oath the

14 4 inventories required by section 633.361 and the required
14 5 reports, perform all the duties required by this chapter of
14 6 the personal representative, and file the inheritance tax
14 7 return.

14 8 2. However, this section does not apply and a return is
14 9 not required to be filed even though real estate is part of
14 10 the assets subject to tax under this chapter, if all of the
14 11 assets are held in joint tenancy with right of survivorship
14 12 between husband and wife alone, or if the estate exclusively
14 13 consists of property held in joint tenancy with the right of
14 14 survivorship solely by the decedent and ~~any~~ individuals listed
14 15 in section 450.9 as individuals that are entirely exempt from
14 16 Iowa inheritance tax and the estate does not have a federal
14 17 estate tax obligation.

14 18 3. However, this section does not apply and a return is
14 19 not required to be filed, even though real estate is involved,
14 20 if the estate does not have a federal estate tax filing
14 21 obligation and if all the estate's assets are described in any
14 22 of the following categories:

14 23 a. Assets held in joint tenancy with right of survivorship
14 24 between husband and wife alone.

14 25 b. Assets held in joint tenancy with right of survivorship
14 26 solely between the decedent and individuals listed in section
14 27 450.9 as individuals that are entirely exempt from Iowa
14 28 inheritance tax.

14 29 c. Assets passing by beneficiary designation, pursuant to
14 30 a trust intended to pass the decedent's property at death or
14 31 through any other nonprobate transfer solely to individuals
14 32 listed in section 450.9 as individuals that are entirely
14 33 exempt from Iowa inheritance tax.

14 34 This subsection does not apply to interests in an asset or
14 35 assets that pass to both an individual listed in section 450.9
15 1 and to that individual's spouse.

15 2 4. If a return is not required to be filed pursuant to
15 3 subsection 3, and if real estate is involved, one of the
15 4 individuals with an interest in, or succeeding to an interest
15 5 in, the real estate shall file an affidavit in the county in
15 6 which the real estate is located setting forth the legal
15 7 description of the real estate and the fact that an
15 8 inheritance tax return is not required pursuant to subsection
15 9 3. If a false affidavit is filed, the affiant and the
15 10 personal representative shall be jointly and severally liable
15 11 for any tax, penalty, and interest that may have been due.
15 12 Any otherwise applicable statute of limitations on the
15 13 assessment and collection of the tax, penalty, and interest
15 14 shall not apply.

15 15 5. When this section applies, proceedings for the
15 16 collection of the tax when a personal representative is not
15 17 appointed shall conform as nearly as possible to proceedings
15 18 under this chapter in other cases.

15 19 Sec. 30. Section 450.37, subsection 2, paragraph a, Code
15 20 Supplement 2003, is amended to read as follows:

15 21 a. If an agreement has not been reached on the fair market
15 22 value of real property in the ordinary course of trade, the
15 23 director of revenue has ~~thirty~~ sixty days after the return is
15 24 filed to request an appraisal under section 450.27. If an
15 25 appraisal request is not made within the ~~thirty-day~~ sixty-day
15 26 period, the value listed on the return is the agreed value of
15 27 the real property.

15 28 Sec. 31. Section 450.53, subsections 1 and 2, Code
15 29 Supplement 2003, are amended to read as follows:

15 30 1. a. All personal representatives, except guardians and
15 31 conservators, and other persons charged with the management or
15 32 settlement of any estate or trust from which a tax is due
15 33 under this chapter, shall file an inheritance tax return,
15 34 within the time limits set by section 450.6, with a copy of
15 35 any federal estate tax return and other documents required by
16 1 the director which may reasonably tend to prove the amount of
16 2 tax due, and at the time of filing, shall pay to the
16 3 department of revenue the amount of the tax due from any
16 4 devisee, grantee, donee, heir, or beneficiary of the decedent,
16 5 except in cases where payment of the tax is deferred until the
16 6 determination of a prior estate. The owner of the future
16 7 interest shall file a supplemental inheritance tax return and
16 8 pay to the department of revenue the tax due within the time
16 9 limits set in this chapter. The inheritance tax returns shall
16 10 be in the form prescribed by the director.

16 11 b. Notwithstanding paragraph "a", an inheritance tax
16 12 return is not required to be filed if the estate does not have
16 13 a federal estate tax filing obligation and if all the estate
16 14 or trust assets pass solely to individuals listed in section

16 15 450.9 as individuals that are entirely exempt from Iowa
16 16 inheritance tax. This paragraph is not applicable if
16 17 interests in the asset passes to both an individual listed in
16 18 section 450.9 and to that individual's spouse.

16 19 2. a. A person in possession of assets to be reported for
16 20 purposes of taxation, including a personal representative or
16 21 trustee, who willfully makes a false or fraudulent return, or
16 22 willfully fails to pay the tax, supply the information, make,
16 23 sign, or file the required return within the time required by
16 24 law, is guilty of a fraudulent practice. This paragraph does
16 25 not apply if a return is not required to be filed pursuant to
16 26 subsection 1, paragraph "b".

16 27 b. If a false affidavit is filed, the affiant and the
16 28 personal representative shall be jointly and severally liable
16 29 for any tax, penalty, and interest that may have been due.
16 30 Any otherwise applicable statute of limitations on the
16 31 assessment and collection of the tax, penalty, and interest
16 32 shall not apply.

16 33 Sec. 32. Section 450.58, Code Supplement 2003, is amended
16 34 to read as follows:

16 35 450.58 FINAL SETTLEMENT TO SHOW PAYMENT.

17 1 ~~The 1.~~ Except as provided in subsection 2, the final
17 2 settlement of the account of a personal representative shall
17 3 not be accepted or allowed unless it shows, and the court
17 4 finds, that all taxes imposed by this chapter upon any
17 5 property or interest in property that are made payable by the
17 6 personal representative and to be settled by the account, have
17 7 been paid, and that the receipt of the department of revenue
17 8 for the tax has been obtained as provided in section 450.64.

17 9 2. If an inheritance tax return is not required to be
17 10 filed pursuant to section 450.53, subsection 1, paragraph "b",
17 11 the personal representative's final settlement of account need
17 12 not contain an inheritance tax receipt from the department,
17 13 but shall, instead, contain the personal representative's
17 14 statement, under oath, that an inheritance tax return is not
17 15 required to be filed pursuant to section 450.53, subsection 1,
17 16 paragraph "b". If a false affidavit is filed, the affiant and
17 17 the personal representative shall be jointly and severally
17 18 liable for any tax, penalty, and interest that may have been
17 19 due. Any otherwise applicable statute of limitations on the
17 20 assessment and collection of the tax, penalty, and interest
17 21 shall not apply.

17 22 3. Any order contravening any provision of this section is
17 23 void.

17 24 Sec. 33. Section 450.94, subsection 2, Code Supplement
17 25 2003, is amended to read as follows:

17 26 2. ~~The Unless a return is not required to be filed~~
17 27 ~~pursuant to section 450.22, subsection 3, or section 450.53,~~
17 28 ~~subsection 1, paragraph "b", the taxpayer shall file an~~
17 29 inheritance tax return on forms to be prescribed by the
17 30 director of revenue on or before the last day of the ninth
17 31 month after the death of the decedent. When an inheritance
17 32 tax return is filed, the department shall examine it and
17 33 determine the correct amount of tax. If the amount paid is
17 34 less than the correct amount due, the department shall notify
17 35 the taxpayer of the total amount due together with any penalty
18 1 and interest which shall be a sum certain if paid on or before
18 2 the last day of the month in which the notice is dated, or on
18 3 or before the last day of the following month if the notice is
18 4 dated after the twentieth day of a month and before the first
18 5 day of the following month.

18 6 Sec. 34. Section 452A.3, Code 2003, is amended by adding
18 7 the following new subsection:

18 8 **NEW SUBSECTION. 7.** All excise taxes collected under this
18 9 chapter by a supplier, restrictive supplier, importer, dealer,
18 10 blender, user, or any individual are deemed to be held in
18 11 trust for the state or Iowa.

18 12 Sec. 35. Section 453A.6, Code 2003, is amended by adding
18 13 the following new subsection:

18 14 **NEW SUBSECTION. 6.** All excise taxes collected under this
18 15 division by a distributor, manufacturer, or any individual are
18 16 deemed to be held in trust for the state of Iowa.

18 17 Sec. 36. Section 453A.11, Code 2003, is amended to read as
18 18 follows:

18 19 453A.11 CANCELLATION OF STAMPS.

18 20 Stamps affixed to a package of cigarettes shall not be
18 21 canceled by any letter, numeral, or other mark of
18 22 identification or otherwise mutilated in any manner that will
18 23 prevent or hinder the department in making an examination as
18 24 to the genuineness of the stamp. However, the director may
18 25 require such cancellation of the tax stamps affixed to

18 26 packages of cigarettes which is necessary to carry out
18 27 properly the provisions of this division. A person who
18 28 cancels or causes the cancellation of stamps in violation of
18 29 this section shall be considered in possession of unstamped
18 30 cigarettes and is subject to the penalty provided in section
18 31 453A.31, subsection 1.

18 32 Sec. 37. Section 453A.15, subsection 1, Code 2003, is
18 33 amended to read as follows:

18 34 1. The director may prescribe the forms necessary for the
18 35 efficient administration of this division and may require
19 1 uniform books and records to be used and kept by each permit
19 2 holder or other person as deemed necessary. The director may
19 3 also require each permit holder or other person to keep and
19 4 retain in the director's possession evidence on prescribed
19 5 forms of all transactions involving the purchase and sale of
19 6 cigarettes or the purchase and use of stamps. The evidence
19 7 shall be kept for a period of ~~two~~ three years from the date of
19 8 each transaction, for the inspection at all times by the
19 9 department.

19 10 Sec. 38. Section 453A.28, Code 2003, is amended to read as
19 11 follows:

19 12 453A.28 ASSESSMENT OF TAX BY DEPARTMENT == INTEREST ==
19 13 PENALTY.

19 14 If after any audit, examination of records, or other
19 15 investigation the department finds that any person has sold
19 16 cigarettes without stamps affixed or that any person
19 17 responsible for paying the tax has not done so as required by
19 18 this division, the department shall fix and determine the
19 19 amount of tax due, and shall assess the tax against the
19 20 person, together with a penalty as provided in section 421.27.
19 21 The taxpayer shall pay interest on the tax or additional tax
19 22 at the rate determined under section 421.7 counting each
19 23 fraction of a month as an entire month, computed from the date
19 24 the tax was due. If any person fails to furnish evidence
19 25 satisfactory to the director showing purchases of sufficient
19 26 stamps to stamp unstamped cigarettes purchased by the person,
19 27 the presumption shall be that the cigarettes were sold without
19 28 the proper stamps affixed. Within ~~two~~ three years after the
19 29 report is filed or within ~~two~~ three years after the report
19 30 became due, whichever is later, the department shall examine
19 31 the report and determine the correct amount of tax. The
19 32 period for examination and determination of the correct amount
19 33 of tax is unlimited in the case of a false or fraudulent
19 34 report made with the intent to evade tax, or in the case of a
19 35 failure to file a report, or if a person purchases or is in
20 1 possession of unstamped cigarettes.

20 2 The ~~two-year~~ three-year period of limitation may be
20 3 extended by a taxpayer by signing a waiver agreement form to
20 4 be provided by the department. The agreement must stipulate
20 5 the period of extension and the tax period to which the
20 6 extension applies. The agreement must also provide that a
20 7 claim for refund may be filed by the taxpayer at any time
20 8 during the period of extension.

20 9 Sec. 39. Section 453A.31, subsection 1, paragraphs c, d,
20 10 and e, Code 2003, are amended to read as follows:

20 11 c. A ~~one thousand twenty-five~~ dollar per pack penalty for
20 12 the first violation if a person is in possession of more than
20 13 two thousand unstamped cigarettes.

20 14 d. For a second violation within ~~two~~ three years of the
20 15 first violation, the penalty is four hundred dollars if a
20 16 person is in possession of more than forty but not more than
20 17 four hundred unstamped cigarettes; one thousand dollars if a
20 18 person is in possession of more than four hundred but not more
20 19 than two thousand unstamped cigarettes; and ~~two thousand~~
20 20 thirty-five dollars per pack if a person is in possession of
20 21 more than two thousand unstamped cigarettes.

20 22 e. For a third or subsequent violation within ~~two~~ three
20 23 years of the first violation, the penalty is six hundred
20 24 dollars if a person is in possession of more than forty but
20 25 not more than four hundred unstamped cigarettes; one thousand
20 26 five hundred dollars if a person is in possession of more than
20 27 four hundred but not more than two thousand unstamped
20 28 cigarettes; and ~~three thousand~~ forty-five dollars per pack if
20 29 a person is in possession of more than two thousand unstamped
20 30 cigarettes.

20 31 Sec. 40. Section 453A.31, subsection 2, paragraphs b and
20 32 c, Code 2003, are amended to read as follows:

20 33 b. A five hundred dollar penalty for a second violation
20 34 within ~~two~~ three years of the first violation.

20 35 c. A thousand dollar penalty for a third or subsequent
21 1 violation within ~~two~~ three years of the first violation.

21 2 Sec. 41. Section 453A.32, subsections 1, 4, and 5, Code
21 3 2003, are amended to read as follows:

21 4 1. All cigarettes on which taxes are imposed or required
21 5 to be imposed by this division, which are found in the
21 6 possession or custody, or within the control of any person,
21 7 for the purpose of being sold, distributed, or removed by the
21 8 person in violation of this division, and all cigarettes which
21 9 are removed or are, stored, transported, deposited, or
21 10 concealed in any place with intent to avoid payment of taxes
21 11 without the proper taxes paid, and any automobile, truck,
21 12 boat, conveyance, or other vehicle whatsoever, used in the
21 13 removal, storage, deposit, concealment, or transportation of
21 14 cigarettes for such the purpose of avoiding the payment of the
21 15 proper tax, and all equipment or other tangible personal
21 16 property incident to and used for such the purpose of avoiding
21 17 the payment of the proper tax, found in the place, building,
21 18 or vehicle where cigarettes are found, and all counterfeit
21 19 cigarettes may be seized by the department, with or without
21 20 process and shall be from the time of the seizure forfeited to
21 21 the state of Iowa. A proceeding in the nature of a proceeding
21 22 in rem shall be filed in a court of competent jurisdiction in
21 23 the county of seizure to maintain the seizure and declare and
21 24 perfect the forfeiture. All cigarettes, counterfeit
21 25 cigarettes, vehicles, and property seized, remaining in the
21 26 possession or custody of the department, sheriff or other
21 27 officer for forfeiture or other disposition as provided by
21 28 law, are not subject to
21 29 4. In the event final judgment is rendered in the
21 30 forfeiture proceedings aforesaid, maintaining the seizure, and
21 31 declaring and perfecting the forfeiture of said seized
21 32 property, the court shall order and decree the sale thereof of
21 33 the seized property, other than the counterfeit cigarettes, to
21 34 the highest bidder, by the sheriff at public auction in the
21 35 county of seizure after notice is given in the manner provided
22 1 in the case of the sale of personal property under execution,
22 2 and the proceeds of such sale, less expense of seizure and
22 3 court costs, shall be paid into the state treasury.
22 4 Counterfeit cigarettes shall be destroyed or disposed of in a
22 5 manner determined by the director.

22 6 5. In the event the cigarettes seized hereunder and sought
22 7 to be sold upon forfeiture shall be are unstamped, the
22 8 cigarettes shall be sold by the director or the director's
22 9 designee to the highest bidder among the licensed permitted
22 10 distributors in this state after written notice has been
22 11 mailed to all such distributors. If there is no bidder, or in
22 12 the opinion of the director the quantity of cigarettes to be
22 13 sold is insufficient or for any other reason such disposition
22 14 of the cigarettes is impractical, the cigarettes shall be
22 15 destroyed or disposed of in a manner as determined by the
22 16 director. The proceeds of such from the sales shall be paid
22 17 into the state treasury.

22 18 Sec. 42. Section 453A.36, Code 2003, is amended by adding
22 19 the following new subsection:

22 20 NEW SUBSECTION. 9. a. It is unlawful for a person to
22 21 ship or import into this state or to offer for sale, sell,
22 22 distribute, transport, or possess counterfeit cigarettes,
22 23 knowing such cigarettes are counterfeit cigarettes or having
22 24 reasonable cause to believe that such cigarettes are
22 25 counterfeit cigarettes.

22 26 b. For purposes of this subsection and section 453A.32,
22 27 "counterfeit cigarettes" means cigarettes, packages of
22 28 cigarettes, cartons of cigarettes or other containers of
22 29 cigarettes with a label, trademark, service mark, trade name,
22 30 device, design, or word adopted or used by a cigarette
22 31 manufacturer to identify its product that is false or used
22 32 without authority of the cigarette manufacturer.

22 33 Sec. 43. NEW SECTION. 453A.39 TOBACCO PRODUCT AND
22 34 CIGARETTE SAMPLES == RESTRICTIONS == ADMINISTRATION.

22 35 1. A manufacturer, distributor, wholesaler, retailer, or
23 1 distributing agent, or agent thereof, shall not give away
23 2 cigarettes or tobacco products at any time in connection with
23 3 the manufacturer's, distributor's, wholesaler's, retailer's,
23 4 or distributing agent's business or for promotion of the
23 5 business or product, except as provided in subsection 2.

23 6 2. All cigarette samples shall be shipped only to a
23 7 distributor that has a permit to stamp cigarettes or little
23 8 cigars with Iowa tax. All cigarette samples must have a
23 9 cigarette stamp. The manufacturer shipping samples under this
23 10 section shall send an affidavit to the director stating the
23 11 shipment information, including the date shipped, quantity,
23 12 and to whom the samples were shipped. The distributor

23 13 receiving the shipment shall send an affidavit to the director
23 14 stating the shipment information, including the date shipped,
23 15 quantity, and from whom the samples were shipped. These
23 16 affidavits shall be duly notarized and submitted to the
23 17 director at the time of shipment and receipt of the samples.
23 18 The distributor shall pay the tax on samples by separate
23 19 remittance along with the affidavit.

23 20 Sec. 44. Section 453A.43, Code 2003, is amended by adding
23 21 the following new subsection:

23 22 NEW SUBSECTION. 6. All excise taxes collected under this
23 23 chapter by a distributor or any individual are deemed to be
23 24 held in trust for the state of Iowa.

23 25 Sec. 45. Section 453A.45, subsection 1, unnumbered
23 26 paragraph 2, Code 2003, is amended to read as follows:

23 27 When a licensed distributor sells tobacco products
23 28 exclusively to the ultimate consumer at the address given in
23 29 the license, an invoice of those sales is not required, but
23 30 itemized invoices shall be made of all tobacco products
23 31 transferred to other retail outlets owned or controlled by
23 32 that licensed distributor. All books, records and other
23 33 papers and documents required by this subdivision to be kept
23 34 shall be preserved for a period of at least ~~two~~ three years
23 35 after the date of the documents or the date of the entries
24 1 appearing in the records, unless the director, in writing,
24 2 authorized their destruction or disposal at an earlier date.
24 3 At any time during usual business hours, the director, or the
24 4 director's duly authorized agents or employees, may enter any
24 5 place of business of a distributor, without a search warrant,
24 6 and inspect the premises, the records required to be kept
24 7 under this subdivision, and the tobacco products contained
24 8 therein, to determine if all the provisions of this division
24 9 are being fully complied with. If the director, or any such
24 10 agent or employee, is denied free access or is hindered or
24 11 interfered with in making the examination, the license of the
24 12 distributor at that premises is subject to revocation by the
24 13 director.

24 14 Sec. 46. Section 453A.45, subsections 2, 3, and 4, Code
24 15 2003, are amended to read as follows:

24 16 2. Every person who sells tobacco products to persons
24 17 other than the ultimate consumer shall render with each sale
24 18 itemized invoices showing the seller's name and address, the
24 19 purchaser's name and address, the date of sale, and all prices
24 20 and discounts. The person shall preserve legible copies of
24 21 all ~~such~~ these invoices for ~~two~~ three years from the date of
24 22 sale.

24 23 3. Every retailer and subjobber shall procure itemized
24 24 invoices of all tobacco products purchased. The invoices
24 25 shall show the name and address of the seller and the date of
24 26 purchase. The retailer and subjobber shall preserve a legible
24 27 copy of each ~~such~~ invoice for ~~two~~ three years from the date of
24 28 purchase. Invoices shall be available for inspection by the
24 29 director or the director's authorized agents or employees at
24 30 the retailer's or subjobber's place of business.

24 31 4. Records of all deliveries or shipments of tobacco
24 32 products from any public warehouse of first destination in
24 33 this state which is subject to the provisions of and licensed
24 34 under chapter 554 shall be kept by the warehouse and be
24 35 available to the director for inspection. They shall show the
25 1 name and address of the consignee, the date, the quantity of
25 2 tobacco products delivered, and such other information as the
25 3 commissioner may require. These records shall be preserved
25 4 for ~~two~~ three years from the date of delivery of the tobacco
25 5 products.

25 6 Sec. 47. Section 453A.46, subsections 1 and 6, Code 2003,
25 7 are amended to read as follows:

25 8 1. On or before the twentieth day of each calendar month
25 9 every distributor with a place of business in this state shall
25 10 file a return with the director showing the quantity and
25 11 wholesale sales price of each tobacco product brought, or
25 12 caused to be brought, into this state for sale; and made,
25 13 manufactured, or fabricated in this state for sale in this
25 14 state, during the preceding calendar month. Every licensed
25 15 distributor outside this state shall in like manner file a
25 16 return showing the quantity and wholesale sales price of each
25 17 tobacco product shipped or transported to retailers in this
25 18 state to be sold by those retailers, during the preceding
25 19 calendar month. Returns shall be made upon forms furnished
25 20 and prescribed by the director and shall contain other
25 21 information as the director may require. Each return shall be
25 22 accompanied by a remittance for the full tax liability shown
25 23 on the return, less a discount as fixed by the director not to

25 24 exceed five percent of the tax. Within ~~two~~ three years after
25 25 the return is filed or within ~~two~~ three years after the return
25 26 became due, whichever is later, the department shall examine
25 27 it, determine the correct amount of tax, and assess the tax
25 28 against the taxpayer for any deficiency. The period for
25 29 examination and determination of the correct amount of tax is
25 30 unlimited in the case of a false or fraudulent return made
25 31 with the intent to evade tax, or in the case of a failure to
25 32 file a return.

25 33 The ~~two-year~~ three-year period of limitation may be
25 34 extended by a taxpayer by signing a waiver agreement form to
25 35 be provided by the department. The agreement must stipulate
26 1 the period of extension and the tax period to which the
26 2 extension applies. The agreement must also provide that a
26 3 claim for refund may be filed by the taxpayer at any time
26 4 during the period of extension.

26 5 6. On or before the twentieth day of each calendar month,
26 6 every consumer who, during the preceding calendar month, has
26 7 acquired title to or possession of tobacco products for use or
26 8 storage in this state, upon which tobacco products the tax
26 9 imposed by section 453A.43 has not been paid, shall file a
26 10 return with the director showing the quantity of tobacco
26 11 products so acquired. The return shall be made upon a form
26 12 furnished and prescribed by the director, and shall contain
26 13 other information as the director may require. The return
26 14 shall be accompanied by a remittance for the full unpaid tax
26 15 liability shown by it. Within ~~two~~ three years after the
26 16 return is filed or within ~~two~~ three years after the return
26 17 became due, whichever is later, the department shall examine
26 18 it, determine the correct amount of tax, and assess the tax
26 19 against the taxpayer for any deficiency. The period for
26 20 examination and determination of the correct amount of tax is
26 21 unlimited in the case of a false or fraudulent return made
26 22 with the intent to evade tax, or in the case of a failure to
26 23 file a return.

26 24 Sec. 48. Section 453B.3, Code 2003, is amended by adding
26 25 the following new unnumbered paragraph:
26 26 NEW UNNUMBERED PARAGRAPH. All excise taxes collected under
26 27 this chapter by a dealer or any individual are deemed to be
26 28 held in trust for the state of Iowa.

26 29 Sec. 49. Section 633.479, unnumbered paragraph 2, Code
26 30 Supplement 2003, is amended to read as follows:

26 31 An order approving the final report and discharging the
26 32 personal representative shall not be required if all
26 33 distributees otherwise entitled to notice are adults, under no
26 34 legal disability, have signed waivers of notice as provided in
26 35 section 633.478, have signed statements of consent agreeing
27 1 that the prayer of the final report shall constitute an order
27 2 approving the final report and discharging the personal
27 3 representative, and if the statements of consent are dated not
27 4 more than thirty days prior to the date of the final report,
27 5 and if compliance with sections 422.27 and 450.58 have been
27 6 fulfilled and receipts, sworn statements, and certificates, as
27 7 any of these that are required, are on file. In those

27 8 instances final order shall not be required and the prayer of
27 9 the final report shall be considered as granted and shall have
27 10 the same force and effect as an order of discharge of the
27 11 personal representative and an order approving the final
27 12 report.

27 13 Sec. 50. Sections 2A.8 and 48A.24, Code Supplement 2003,
27 14 are repealed.

27 15 Sec. 51. REFUNDS. Refunds of taxes, interest, or
27 16 penalties which arise from claims resulting from the amendment
27 17 to section 422.42, subsection 6, in this Act, for the
27 18 noninclusion of trade discounts in computing gross receipts on
27 19 sales occurring between January 1, 1997, and the effective
27 20 date of the section amending section 422.42, subsection 6, in
27 21 this Act, shall be limited to twenty-five thousand dollars in
27 22 the aggregate and shall not be allowed unless refund claims
27 23 are filed prior to October 1, 2004, notwithstanding any other
27 24 provision of law. If the amount of claims totals more than
27 25 twenty-five thousand dollars in the aggregate, the department
27 26 of revenue shall prorate the twenty-five thousand dollars
27 27 among all claimants in relation to the amounts of the
27 28 claimants' valid claims.

27 29 Sec. 52. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
27 30 PROVISIONS.

27 31 1. The section amending section 422.42, subsection 6, in
27 32 this Act, being deemed of immediate importance, takes effect
27 33 upon enactment and applies retroactively to January 1, 1997.

27 34 2. The section amending section 422.42, subsection 6, in

27 35 this Act is void on and after July 1, 2004.

28 1 3. The section providing for sales and use tax refunds in
28 2 this Act ceases to apply to any refund claims filed after
28 3 September 30, 2004.

28 4 EXPLANATION

28 5 Code sections 15.335, 15A.9, 422.10, and 422.33 are amended
28 6 to update the Iowa Code references to the state research
28 7 activities credit for individuals, corporations, corporations
28 8 in economic development areas, and corporations in quality
28 9 jobs enterprise zones to include the 2003 federal changes in
28 10 the research activities credit.

28 11 Code section 421.1(4) is amended to permit the department
28 12 of revenue to appeal decisions of the state board of tax
28 13 review to district court.

28 14 Code sections 421.17A, the administrative levy, and
28 15 421.17B, the administrative wage assignment, which apply to
28 16 the debtors of the state, are amended as follows:

28 17 1. Code sections 421.17A(8) and 421.17B(8) are amended by
28 18 adding to each a new paragraph "g" which limits recovery by a
28 19 debtor in district court when a wrongful administrative levy
28 20 or wage assignment is alleged and limits the ability of a
28 21 debtor to litigate administrative levies and wage assignments.

28 22 2. Code sections 421.17A(8) and 421.17B(8) are amended by
28 23 adding to each a new paragraph "h" which specifies that a
28 24 challenge to an administrative levy or administrative wage
28 25 assignment will result in the facts of the levy or assignment
28 26 being reviewed and not the amount or validity of the tax.

28 27 3. Code section 421.17A(2)(a) is amended to add identical
28 28 language that exists in Code section 421.17B(2)(a) to provide
28 29 that the administrative levy remedy is cumulative and that the
28 30 election to use such remedy does not forestall the use of any
28 31 other remedy provided by law.

28 32 4. The remaining changes to these sections provide more
28 33 uniformity between the administrative wage assignment statute
28 34 and the administrative levy statute and reflect actual
28 35 practice.

29 1 Code sections 422.42(6) and 423.1(47) are amended to
29 2 exclude from gross receipts for sales and use tax purposes
29 3 trade discounts given or allowed by manufacturers,
29 4 distributors, or wholesalers to retailers or payments made by
29 5 such persons to retailers to reduce the sales price of such
29 6 persons' products. The amendment is retroactive to January 1,
29 7 1997, with refunds arising from such retroactivity limited to
29 8 \$25,000. Claims for refunds must be filed prior to October 1,
29 9 2004. The amendment does not apply to coupons issued to
29 10 consumers.

29 11 Code sections 422A.1, 422B.9(3)(a), 423.2, 424.3(1),
29 12 452A.3, 453A.6, 453A.43, and 453B.3 are amended to give
29 13 priority to the department of revenue in the collection of
29 14 taxes by treating them as trust fund taxes.

29 15 Code sections 423.1(47) and 423.2(6) are amended to define
29 16 "sales price" to include rents, royalties, and copyright and
29 17 license fees. Under existing Iowa sales and use tax law,
29 18 leasing of tangible personal property is a taxable service.
29 19 Under the law which becomes effective July 1, 2004, leasing is
29 20 the sale of that property rather than the performance of a
29 21 taxable service. The taxable proceeds from these leases have
29 22 always included rents, royalties, copyright, and license fees.

29 23 Code section 423.3(33) is amended to change a reference
29 24 from legislative service bureau to legislative services agency
29 25 for purposes of the Iowa sales tax exemption as it is provided
29 26 in Code section 2A.8, which is repealed.

29 27 Code section 423.3(82) is amended to expand the exemption
29 28 from the sales and use taxes of molding and sand handling
29 29 machinery and equipment to include replacement parts and the
29 30 costs of utilities and installation costs associated with such
29 31 machinery and equipment.

29 32 Code section 423.3 is amended to add a new subsection 43A
29 33 to place the exemption from Iowa sales and use tax applicable
29 34 to the reciprocal shipment of wine contained in Code section
29 35 123.187 in this section of the Code.

30 1 Code section 441.21(2) is amended to require the owner of
30 2 section 42 property under the Internal Revenue Code to notify
30 3 the assessor when the property is withdrawn from the Internal
30 4 Revenue Code program. A monetary penalty of \$500 is also
30 5 included if this notification is not forthcoming.

30 6 Code sections 450.22, 450.53(1) and (2), 450.58, and
30 7 450.94(2) are amended so that an inheritance tax return is not
30 8 required to be filed if all property is passed to an exempt
30 9 entity. Iowa law currently requires estates of \$25,000 or
30 10 more to file a return regardless of to whom the property

30 11 passes. In the case where a return is not required to be
30 12 filed and the estate involves real property, an affidavit, of
30 13 such fact must be filed. Upon filing a false affidavit the
30 14 affiant and personal representative are jointly and severably
30 15 liable for tax, penalty, and interest. Code section 633.479
30 16 is amended to reflect the nonrequirement of filing an
30 17 inheritance tax return.
30 18 Code section 450.37(2)(a) is amended to extend from 30 to
30 19 60 days the period of time the director of revenue has to
30 20 request an appraisal after an inheritance tax return is filed.
30 21 Code section 453A.11 is amended to impose a penalty against
30 22 any person found to have altered a cigarette tax stamp.
30 23 Code sections 453.15(1), 453.28, 453A.45(1), unnumbered
30 24 paragraph 2 and subsections 2, 3, and 4, and 453A.46(1) and
30 25 (6) are amended to extend the statute of limitations for
30 26 cigarette and tobacco tax audits from two to three years.
30 27 This three-year period is consistent with all other taxes.
30 28 Code section 453A.31(1)(c), (d), and (e), is amended to
30 29 increase the penalty for possessing more than 2,000 unstamped
30 30 cigarettes (10 cartons) and to reflect the extension of time
30 31 from two to three years for the department to impose a penalty
30 32 for certain violations.
30 33 Code section 453A.31(2)(b) and (c) is amended to reflect
30 34 the extension of time from two to three years for the
30 35 department to impose a penalty for certain violations.
31 1 Code sections 453A.32 and 453A.36 are amended to make it
31 2 unlawful to ship or import into Iowa or sell, distribute, or
31 3 possess counterfeit cigarettes and allow for the confiscation
31 4 and destruction of those cigarettes. "Counterfeit cigarettes"
31 5 are cigarettes that are marked in such a manner that would
31 6 lead someone to believe the cigarettes were of a specific
31 7 known brand or manufacturer.
31 8 New Code section 453A.39 is added to place restrictions on
31 9 manufacturers, distributors, wholesalers, and retailers in
31 10 providing cigarette samples to the public.
31 11 Code section 48A.24 is repealed. This section requires
31 12 that two voter registration forms be inserted in each
31 13 individual income tax instruction booklet every other year.
31 14 LSB 6923HC 80
31 15 mg/pj/5.1